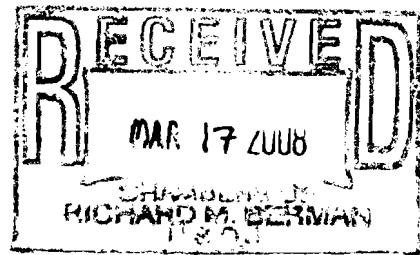
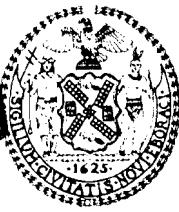


MEMO ENDORSED



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March 14, 2008

VIA HAND DELIVERY

Honorable Richard M. Berman
United States District Judge, SDNY
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

**USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 3-17-08
DATE FILED: 3-17-08**

Re: Mark Kapiti v. Raymond W. Kelly, et al., 07 Civ. 3782 (RMB) (KNF)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to the defense of the above-referenced matter on behalf of defendants City of New York, Police Commissioner Raymond W. Kelly, and the Property Clerk of the New York City Police Department.¹ In that regard, I write to respectfully request that the Court adjourn the settlement conference, scheduled for March 18, 2008 at 9:00 a.m. until a date after Honda is joined as a third-party defendant in this case. Plaintiff takes no position concerning this request.

As background, yesterday the Court ordered that “Defendants’ motion for leave to implead Honda as a third-party defendant is granted.” Defendants are presently drafting the third party complaint against Honda and intend to serve Honda with the third party complaint immediately. Thus, Honda likely will not have been joined as a party by March 18, 2008. Given that Honda entered into an indemnification and hold harmless agreement with defendant City of New York, Honda is an integral part of the settlement discussions. Accordingly, a settlement conference would be more productive after Honda has been joined as a party in this matter. Additionally, I write to advise the Court that I have a trial scheduled before the Honorable Alvin

¹ This case has been assigned to Assistant Corporation Counsel Philip S. Frank, who is presently awaiting admission to practice law in the Southern District of New York and is handling this matter under supervision. Mr. Frank may be reached directly at (212) 788-0893.

K. Hellerstein in the matter of Joseph Jones v. City of New York et al., 05 Civ. 5252 (AKH), which is scheduled to begin on March 24, 2008. The trial has a substantial number of witnesses and is scheduled to last five days. Therefore, for these reasons, defendants respectfully request that the Court adjourn the settlement conference, scheduled for March 18, 2008 at 9:00 a.m. until a date after Honda has been served as a party in this action.

I thank the Court for its consideration herein.

Respectfully submitted,

David M. Hazan

David M. Hazan (DH-8611)
Assistant Corporation Counsel
Special Federal Litigation Division

cc: **Via Facsimile (212) 297-0777**

Steven L. Kessler, Esq.
122 East 42nd Street, Suite 606
New York, NY 10168

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<i>Conference adjourned to 3/3/08 @ 3:15 P.M. (with principals separately)</i>
<hr/> <hr/> <hr/>
SO ORDERED Date: <u>3/17/08</u> <i>Richard M. Berman</i> Richard M. Berman, U.S.D.J.